

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Annual Assessment of the Status)
of Competition in the Market for)
the Delivery of Video Programming)

CS Docket No. 95-61

To: The Commission

COMMENTS OF PRIMESTAR PARTNERS L.P.

PRIMESTAR Partners L.P. ("PRIMESTAR"), by its attorneys, hereby submits these Comments in response to the Commission's Notice of Inquiry ("NOI") released May 24, 1995, in the above-captioned proceeding.

I. INTRODUCTION

The Commission has issued the NOI in this proceeding to assist it in the preparation of its second annual report assessing the status of competition in the market for the delivery of video programming as required by Section 19(g) of the Cable Television Consumer Protection and Competition Act of 1992. 47 U.S.C. § 548(f). As part of the NOI, the Commission has posed specific questions to operators in the Direct Broadcast Satellite services. In these Comments, PRIMESTAR will respond to the Commission's request for information.

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II. OVERVIEW OF PRIMESTAR'S CURRENT OPERATIONS

Only one year ago, PRIMESTAR reported to the Commission that it had just completed the developmental phase of its operation and was commencing accelerated marketing of its service. As of June, 1994, PRIMESTAR indicated that it had 70,383 subscribers located throughout the United States and that it was converting from analog to digital technology. The conversion to digital was completed in mid-1994, enabling PRIMESTAR to more than double the number of channels it was able to offer to 73 channels of high quality, digital programming. The expansion of the capacity was more than matched by the growth of PRIMESTAR's subscriber base to approximately 500,000 as of June of 1995. PRIMESTAR offers the full range of programming to which American consumers have become accustomed, and, because of its expanded capacity, it offers more of such programming than is available on many terrestrial cable systems.

A substantial factor in the future growth of PRIMESTAR has been its expectation that, in 1996, it would be able to migrate from its existing medium-power Ku-band satellite, requiring consumers to use antennas approximately three feet in diameter, to new DBS satellites. Once on the new satellites, PRIMESTAR would be able to offer up to 200 channels of service to consumers employing 18-inch diameter antennas. These plans have been disrupted, hopefully only temporarily, by a recent FCC International Bureau decision cancelling the authorization for the satellite system PRIMESTAR proposed to use to deliver this service to its subscribers. Advanced Communications Corporation,

DA 95-944, released April 27, 1995. That decision is under review and, if reversed, will permit PRIMESTAR to pursue its role as a fully competitive DBS operator.

PRIMESTAR provides both reception equipment and basic programming service starting at about \$1.00 a day, with optional subscription programming available for an additional charge. Because of its digital technology, PRIMESTAR delivers programming with a laser disc-quality picture and CD-quality sound. Unlike other DBS providers, PRIMESTAR does not require the consumer to purchase any equipment. All necessary equipment is provided by PRIMESTAR's network of more than 400 local distributors, and the cost of the equipment is included in the basic monthly fee.

The American public wants interesting and diversified programming, delivered with excellent technical quality, at a reasonable cost, and backed by responsive service organizations. PRIMESTAR, with its array of programming for every taste, digital technology, reasonable pricing structure, and experienced local distributor organization successfully matches consumer demands. With the opportunity to be fully competitive through the use of the proposed DBS satellites, PRIMESTAR will be ready to play a significant role in the competitive video distribution marketplace.

III. RESPONSE TO COMMISSION QUESTIONS ON DIRECT BROADCAST SATELLITE SERVICES

In response to the Commission's questions, we will attempt to provide the necessary information, but in view of the highly and

increasingly competitive nature of the program delivery business, certain information and business projections may be too sensitive to be spread upon the public record. With this caveat, we will attempt to respond to the questions relevant to PRIMESTAR's operations following the numbering used by the Commission in Paragraph 40 of the NOI.

a. We have no specific information on whether subscribers take more than one DBS service, but we have no reason to believe that any such overlap would be extensive, as the program offerings of each are very similar and any differences would not appear to us to be justified by the additional cost involved. As noted above, PRIMESTAR currently has approximately 500,000 subscribers and has enjoyed exceptional growth over the past year.

b. It is not feasible for PRIMESTAR to project future subscriber growth since the Commission staff's action with respect to the proposed DBS satellites would undoubtedly have a significant impact on PRIMESTAR's competitive posture and growth. Until those issues are resolved, any projections would be meaningless. If PRIMESTAR is permitted to utilize the DBS channels and orbital position of Advanced Communications Corporation in a timely manner, it would anticipate having 3 to 4 million subscribers by the year 2000. The growth over the past year confirms that there is a very substantial demand for DBS service, especially in underserved areas.

c. PRIMESTAR does not break down subscribers between urban and rural, but based on the fact that approximately 80% of

PRIMESTAR's subscribers are from areas not served by cable systems, it seems reasonable to conclude that our current subscribers are overwhelmingly from rural areas. Two reasons account for PRIMESTAR's current subscribers being predominantly in unserved territories. First, pent up demand for increased programming offerings is significant in areas not served by cable. Second, because PRIMESTAR currently is relegated to the use of three foot antennas, it is more difficult, due to zoning regulations and consumer aesthetic concerns, to successfully sell PRIMESTAR's services in more urban areas. We have no information as to the number of cable subscribers who also subscribe to DBS services or the reasons for their action. We do not believe the number to be significant since both services offer comparable programming options. The cable operator, however, has a significant competitive advantage as it is permitted to broadcast local television programming.

d. PRIMESTAR's current digital channel capacity is 73 programming channels. As noted above, PRIMESTAR hopes to move to DBS satellites next year, which will permit it to expand its channel capacity to offer 200 channels of television service to the public.

e. PRIMESTAR has announced a \$100 Million marketing campaign for 1995 to build brand awareness for its service which includes national television spots, radio network service spots and advertising in consumer publications. This follows upon a \$55 Million 1994 campaign which launched PRIMESTAR. In addition, PRIMESTAR's 400 local distributors promote the service via spot

television and radio, newspaper and outdoor advertising and event promotion.

f. As noted, the inability to offer local television stations to consumers is certainly a competitive disadvantage vis-a-vis cable systems. Even in areas not served by local television broadcast stations, a cable system can import stations from the nearest market with which there is a community of interest. We are unaware of any developments that would permit DBS subscribers to obtain local stations via satellite.

g. PRIMESTAR's distributors establish the prices they will charge for the PRIMESTAR programming, other than for pay-per-view services for which PRIMESTAR establishes the retail price. The prices charged by distributors will vary with local costs and competitive conditions. Typically, prices for the PRIMESTAR service range from \$29.95 to \$34.95 per month for a comparable basic service, with varying installation costs.

h. All necessary equipment is provided by PRIMESTAR's distributors. We are unaware of any significant equipment shortage.

At Paragraph 42 of the NOI, the Commission observes that zoning regulations may be an impediment to the development and expansion of DBS. PRIMESTAR agrees. These regulations are particularly burdensome to PRIMESTAR now, since its current subscribers must use antennas approximately three feet in diameter. PRIMESTAR will provide more detailed information regarding the detrimental effects of zoning regulations in its

comments in response to the Commission's Notice of Proposed Rulemaking on that issue.¹

CONCLUSION

In the foregoing comments, PRIMESTAR has attempted to respond to the questions directed specifically to PRIMESTAR's services and operations. PRIMESTAR has provided the Commission with the information within PRIMESTAR's possession, subject to PRIMESTAR's legitimate needs to maintain in confidence sensitive business and marketing data and forecasts. We would emphasize, however, that rapid Commission action to modify the International Bureau decision to provide PRIMESTAR with access to DBS satellites is necessary for PRIMESTAR to achieve competitive parity with other DBS and cable operators.

Respectfully submitted,

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June 30, 1995

¹ Preemption of Local Zoning Regulation of Satellite Earth Stations, FCC 95-180, released April 27, 1995.